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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/730,562 | 12/08/2003 | Maciej Szymanski | 115847/2 | 4234 |

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EXAMINER

PATEL, KIRAN B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3612

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,562

Applicant(s)

SZYMANSKI ET AL.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 8-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/06/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Second Non-Final Rejection

Restriction

1. Applicant's election with traverse of Invention I, claims 1-7 is acknowledged. Arguments presented were considered but found them not persuasive because search for the additional inventions and/or Species would create an undue burden upon the Examiner.

Claims 8-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make

and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It appears that the original filed application fails to show that the inventor had the possession of the claimed invention/limitations (included in the papers filed 12/06/04 to incorporate amendments page 4, line 6; page 5, line 16 and addition of new Fig 11) at the time the time the application was filed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7, as best understood, are confusing and are not clear because claimed limitations, (claim 1, the seat moves forward with respect to the vehicle to move the seat from the normal position to the first stowed position; and wherein the seat pivots about ninety degrees with respect to the vehicle to move the seat

from the first stowed position to the second stowed position; claim 2, an up position, when the seat is in one of the normal position and the second stowed position; claim 4, the first stowed position the seat back is aligned generally parallel with the seat back at the normal position; claim 5, a latch assembly latching the seat in one of the normal position, the first stowed position and the second stowed position; claim 6, a second wall attachment bracket which cooperates with the frame to latch the seat in the first stowed position, and a third wall attachment bracket which cooperates with the frame to latch the seat in the second stowed position; claim 7, the third wall attachment bracket is rotated about 90 degrees with respect to the first wall attachment bracket), are not clearly shown in the figures and/or lacks support in the specification and therefore fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These limitations must be shown or the feature(s) canceled from the claim(s). Applicant is requested to go through the application and ensure that the claimed matter has been described in the specification and shown in the drawing in such a way as to convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-7, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Mitschelen et al. (5,593,208).

Regarding claims 1-2, 4-7, Mitschelen et al. (5,593,208) discloses in Fig. 1-7 the invention as claimed to include a seat having a seat back 14 and a movable seat base 10 pivotable with respect to the seat back, wherein the seat is movable between a normal position (Fig 1), a first stowed position (Fig 1 dotted lines) and a second position (Fig 2); wherein the seat moves forward (# 15 in dotted lines) with respect to vehicle to move the seat from the normal position to the first stowed position; and wherein the seat pivots 21 about ninety degrees with respect to the vehicle to move the seat from the first stowed position to the second stowed position;

the first stowed position the seat back is aligned generally parallel with the seat back at the normal position; a latch 19; a frame 11 rotates about 90 degrees with respect to the vehicle when moved from the normal position to the second position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitschelen et al. (5,593,208) in view of Moffa et al. (6,106,066).

Regarding claims 3, Mitschelen et al. (5,593,208) discloses the invention as claimed.

However, Mitschelen et al. (5,593,208) does not disclose a gas shock.

Moffa et al. (6,106,066) disclose in Fig 1-13 a gas shock 48.


Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by

Mitschelen et al. (5,593,208), to include a gas shock, as disclosed by Moffa et al. (6,106,066), to resist movement.

Conclusion

5. The prior art made of record in attached Notice of Reference Cited (PTO-892) and not relied upon is considered pertinent to applicant's disclosure. This art of record shows various features similar to the applicant's invention.

6. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Kiran B. Patel whose telephone number is 703-305-0254. The examiner can normally be reached on M-F from 8:00 to 5:00. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Kiran B. Patel, P. E.
Primary Examiner
Art Unit 3612
January 26, 2005